

Application No. 10/600,548
Amendment Dated January 13, 2005
Reply to Office Action of August 16, 2004

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CONDITIONAL PETITION FOR EXTENSION OF TIME

If entry and consideration of the amendments above requires an extension of time, Applicants respectfully request that this be considered a petition therefore. The Assistant Commissioner is authorized to charge any fee(s) due in this connection to Deposit Account No. 14-1263.

ADDITIONAL FEE

Please charge any insufficiency of fees, or credit any excess, to Deposit Account No. 14-1263.

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REMARKS/ARGUMENTS

Claims 1-15 were pending in the application. By this Amendment, claims 1, 2, 4-5, 7-8 and 15 have been amended. No new matter has been added. Accordingly, claims 1-15 are still pending.

Rejection of claims 1-15 under 35 U.S.C. §112, second paragraph

The Examiner rejected claims 1-15 as being indefinite. Specifically, the Examiner stated that it is unclear whether the coating exists internally within the porous bodies or externally.

In response, Applicants have amended claim 1 so that it is more clearly stated whether the coating exists internally or externally. Applicants, therefore, respectfully request that the Examiner reconsider and withdraw this rejection.

Rejection of claims 1 and 6-15 under 35 U.S.C. §103(a)

The Examiner rejected claims 1 and 6-15 as being obvious over Draenert in view of Greco.

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In response, Applicants respectfully disagree that the cited references taken individually or together teach or suggest every limitation in the claims.

Briefly, Applicants respectfully suggest that the motivation to combine the references do not make out a prima facie case of obviousness. This is because the combined teachings provide, at most, an obvious to try motivation. The references do not suggest that the claimed method would be reasonably expected to succeed for the following reasons listed below.

Draenert simply discloses that antibiotics can be added to a coating composition. Greco discloses certain antibiotics in the context of an improved prosthesis. Amended 1 claim reads:

Antibiotic coated porous bodies comprising a coating made of at least one antibiotic salt that is hardly soluble in water or in an aqueous environment from the group consisting of the netilmicin laurate, the netilmicin dodecyl sulfate, the netilmicin myristate, the sisomicin laurate, the sisomicin myristate, the sisomicin dodecyl sulfate, the gentamicin laurate, the gentamicin myristate, the clindamycin laurate, the amikacin laurate, the amikacin myristate, the amikacin dodecyl sulfate, the kanamycin laurate, the kanamycin myristate, the kanamycin dodecyl sulfate, the vancomycin laurate, the vancomycin dodecyl sulfate, the vancomycin myristate, the vancomycin teicoplanin, the tobramycin laurate, the tobramycin myristate, the tobramycin dodecyl sulfate, the ciprofloxacin laurate, the ciprofloxacin myristate and the clindamycin teicoplanin, said coating being introduced onto an inner surface of non-metallic porous bodies and/or of metallic porous bodies.

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Applicants had amended claim 1 to specifically mention that the coating is introduced onto an inner surface of non-metallic porous bodies and/or of metallic porous bodies. It is not mentioned nor suggested in Draenert at all that the coating is introduced onto an inner surface of non-metallic porous bodies and/or metallic porous bodies. The Examiner cites in Draenert, column 6, lines 54-66 to support the Examiner's position, however, column 6, lines 54-66 basically just mentions in general that an antibiotic can be added to a coating composition. It does not mention or suggest at all where and what part it is introduced to on porous bodies. Furthermore, Draenert as well as Greco do not mention any salts of antibiotics as the claimed invention does. Neither reference teaches the specific antibiotic salts recited in the claims.

Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw this rejection.

Rejection of claims 2-5 under 35 U.S.C. §103(a)

The Examiner rejected claims 2-5 as being obvious over Draenert in view of Greco. In response, Applicants respectfully disagree with Examiner that the combination of

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Draenert/Greco renders the claimed subject matter obvious for the reasons which were explained above.


In view of the foregoing remarks, withdrawal of the rejection is respectfully requested.

CONCLUSION

Based on the foregoing remarks it is believed that the claims are in condition for allowance.

Respectfully Submitted,

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